STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-111

February 29, 2000

MAINE PUBLIC UTILITIES COMMISSION
Standard Offer Bidding Procedure

ORDER AUTHORIZING BANGOR HYDRO-ELECTRIC COMPANY TO CONTRACT FOR WHOLESALE POWER SUPPLY AND ESTABLISHING STANDARD OFFER PRICES

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we authorize Bangor Hydro-Electric Company (BHE), pursuant to Chapter 301 Section 8(B)(2) of our rules, to enter into a 1-year wholesale power supply contract with a supplier it has chosen through an offer solicitation process. The wholesale power contract will provide a portion of the supply necessary for standard offer service in BHE's service territory. We conclude that BHE acted prudently in soliciting offers to provide wholesale power supply and by adopting a portfolio strategy for power supply that includes the proposed wholesale power supply contract for approximately 60% of BHE's standard offer load requirements. Additionally, we establish amended standard offer prices for the medium and large non-residential classes based on BHE's projected seasonal and time-of-use costs of supply.

II. BACKGROUND

The Restructuring Act requires that "when retail access begins, the Commission shall ensure that standard-offer service is available to all consumers of electricity." 35-A M.R.S.A. § 3212. The Commission promulgated Chapter 301 to establish the terms and conditions for standard offer service as well as the bid process for the Commission to use to select standard offer service providers, as required by 35-A M.R.S.A. § 3212(2).

Pursuant to Chapter 301, the Commission solicited bids to provide service to BHE's three classes of standard offer customers. In an Order dated October 25, 1999, the Commission rejected all the bids received for BHE's service territory and solicited a second round of proposals. By Order dated December 3, 1999, the Commission again rejected all bids for providing standard offer service to the BHE service territory.[1] The Commission administratively set the standard offer price for all BHE customer classes at 4.5¢ per kWh. As a consequence of the bid rejection, we directed BHE, pursuant to Chapter 301, Section 8(B), to provide standard offer service to all customer classes using power procured from the wholesale market. We announced that we would meet with BHE to discuss the process by which BHE should procure power supply and the nature of the power supply that BHE should obtain.

On December 8, 1999, the Commissioners met with representatives of BHE and the Public Advocate to discuss power supply options for meeting the standard offer load.[2] As a result of that meeting, Bangor Hydro began a request for proposal (RFP) process in mid-December of 1999. BHE distributed an offering letter, term sheet, and estimated loads, after receiving input from the Commission staff and interested parties, to all of the market participants who received the bid package distributed by the Commission in August 1999 as part of the original standard offer bid process. In addition, the Company distributed RFPs to all of the members and alternates within both the Participants and Market Operations Committees within NEPOOL. BHE asked bidders to provide offers for full or partial requirements service for its standard offer customers, and at the time indicated that BHE might also consider a portfolio of unit or system contracts. Bidders were asked to provide estimates both with and without supply meeting the renewable portfolio requirement.

BHE received offers for whole requirement service and for bulk power to allow BHE to assemble its own portfolio. After reviewing all of the offers provided in response to its RFP, BHE identified a particular offer that provided the best combination of price and supply to enable BHE to satisfy its standard offer obligations most economically. BHE accepted the offer provided by the supplier (the preferred supplier), subject to final approval by the PUC. The contract with the preferred supplier provides wholesale bulk power to BHE for one year. BHE estimates that the amount of power provided by this contract should serve approximately the 60% of standard offer load in its service territory. BHE would use this contract as part of a portfolio to supply its standard offer customers in conjunction with power procured from the open market. Through a petition filed on January 20, 2000, BHE asked for approval of its contract with the preferred supplier and for approval of a strategy to provide standard offer service through management of a portfolio of generation resources, a portion of which may involve purchases of energy and reliability products on the open market to satisfy the standard offer load obligations.

[1]For an explanation of the bids received and the reasons for rejecting the bids, see the *Summary of Standard Offer Bids* that we issued on February 1, 2000 in this docket.

[2]The Commissioners also met with representatives from Central Maine Power Company at the same meeting to discuss power supply options for providing standard offer service to its medium and large non-residential customer classes.

BHE asserted that the full requirements contract approach for standard offer service would require a substantial market price premium in exchange for the greater certainty. BHE concluded that the portfolio approach was the wisest course of action, because it results in the smallest premium compared to the Company's forward price estimates for power within the New England market. The portfolio approach would provide customers the benefits of fixing the cost of a substantial portion of the standard offer load (about 60%, BHE estimates), while taking advantage of what BHE believes will be lower prices in the spot market.[3] The portfolio strategy, in Bangor Hydro's view, also mitigates the risk associated with making firm power commitments for a portion of load that may leave the standard offer.

In the same January 20 petition, BHE also requested adjustments to the standard offer prices for the medium and large non-residential standard offer classes. While the 4.5¢ administratively standard offer price is, in BHE's view, an appropriate average price to reflect the cost of providing standard offer service to all three customer classes, BHE proposed that both the medium and large non-residential prices should reflect seasonal price variations and the large non-residential class should also reflect time-of-use variation. Seasonally differentiated prices are proper because they reflect actual market prices for energy and related services, which are highest in the summer months in New England. The bids received by BHE through its RFP process reflect these higher summer prices. Furthermore, BHE argues that seasonal differentiation minimizes the risk of "gaming" the system by customers who are able to obtain market prices from suppliers in non-summer season and then switch to the standard offer during the summer peak period. Time-differentiated rates to industrial class customers are justified for the same reasons as seasonally differentiated rates. Industrial customers already have TOU rates and may have established consumption patterns which reflect time-of-day prices.

BHE's January 20 petition also requested several waivers from Commission rules related to its provision of standard offer service. First, BHE requests a waiver from the requirement that the disclosure label be provided quarterly. See Chapter 306 § 2(E)(2). To lower costs, BHE proposes to send to the label once during the ensuing year and twice if its portfolio mix changes. Second, BHE asks for a waiver of the calendar year requirement for complying with the portfolio requirement. See Chapter

---

[3] BHE originally estimated the firm power contract to supply approximately 70% of the bulk power requirements for a standard offer service, leaving 30% for monthly purchases on the New England spot market. (BHE assumes that its four largest customers, Holtrachem, Fort James, Lincoln and Great Northern, will obtain service from providers outside the standard offer.) On January 26, 2000, BHE filed an amendment to its petition correcting for an error in estimating its standard offer load that resulted in a change in the portion of the standard offer load provided by the firm energy contract to 60%. After discovery of its error, the Company attempted to procure an additional 10% in bulk wholesale contracts, but it was unable to obtain any prices from the market commensurate with the proposed contract with the preferred supplier.

311 § 3(B).[4] BHE states that the calendar year requirement does not correspond well with BHE's limited-time provision of standard offer service which is only for the period from March 1, 2000 through February 28, 2001. Finally BHE requests authorization, pursuant to 35-A M.R.S.A. § 3204 and Chapter 307 § 10, to continue the generation-related business activities related to a purchase power contract with Great Bay Power Corporation that expires March 31, 2000. BHE seeks authorization to: 1) extend the date to divest the contract to March 31, 2000; 2) exempt the contracts capacity and energy from the bidding requirements of Chapter 307; and 3) use the capacity and energy from the contract to serve standard offer load.

The Commission provided an opportunity for interested persons to comment on BHE's petition.[5] The Independent Energy Producers of Maine (IEPM) commented that the 4.5¢ standard offer price was too low because it was not an accurate reflection of wholesale energy market prices plus relevant retail costs that must be incurred by competitive providers. IEPM suggested that prices should reflect all appropriate costs to provide retail service, such as marketing, personnel, overhead, taxes and profit, and by doing so, the Commission will stimulate competition. Industrial Energy Consumer Group (IECG) also commented that BHE's proposed standard offer price of an average 4.5¢ per kWh was likely lower than the cost that BHE will incur in providing standard offer service. The IECG stated that undercollection should be avoided because undercollections may be passed on to the entire body of T&D ratepayers, an unfair result in IECG's view. By avoiding undercollections, the Commission can avoid the significant reconciliation problems.

On February 7, 2000, BHE petitioned to amend its proposed medium class standard offer rates. BHE requested a reduction in the seasonal variation of standard offer rates for the medium standard offer class of customers, from a seasonal differentiation of 57.36% between summer and non-summer rates to a differential of 23.36%. The new differential matched that recommended and adopted for CMP's medium standard offer. The smaller differential caused the number of customers that failed the "no losers" test to decline measurably for the D-1 and D-2 rate classes. Thus, according to BHE, the reduced differential limited the potential of standard offer customers in BHE's D-1and D-2 classes from paying standard offer and T&D rates higher than the current bundled rates, while maintaining enough of a differential to significantly limit gaming opportunities.

On February 10, 2000, the Maine Electric Consumer Cooperative (MECC) filed comments with the Commission on the administratively set 4.5¢ kWh standard offer

---

[4]BHE's petition inadvertently refers to Chapter 306.

[5]Because BHE requested to use a portfolio approach to serve standard offer load, the Commission also invited comments on whether the Commission should periodically alter standard offer prices to avoid substantial deferrals of costs and, to the extent deferrals are not avoided, the Commission invited comments on how such deferrals should be recovered by BHE in the future.

rate. MECC asserted that the average 4.5¢ standard offer price is substantially below current reasonable estimates of the future energy market for one year, virtually guaranteeing significant undercollections. MECC believes that some of its members, especially the smaller D1 and D2 customers, will receive a lower generation bill from BHE's proposed 4.5¢ kWh standard offer than MECC has been able to obtain in the market for firm, committed load. As long as all T&D ratepayers are at risk to pay for undercollections resulting from BHE's 4.5¢ standard offer, MECC members rationally should decide to take the 4.5¢ standard offer rather than market-based MECC prices. The MECC estimated that the BHE standard offer price for the medium and large non-residential classes would have to be increased by 4 mills per kWh to accurately measure prices that could be received in the competitive market. In MECC's opinion, the lack of competitive alternatives for the residential and small non-residential classes justified the Commission's adoption of BHE's recommendation regarding that standard offer class.

III. DECISION

A. Standard Offer Supply

We find that BHE acted prudently in the manner and process by which representatives of the Company sought to acquire wholesale power supply to serve the standard offer service. BHE reasonably conducted a bid process that had resulted in a favorable market price for the firm energy contract to serve approximately 60% of the standard offer load. We also concur with BHE that it was prudent to reject the full requirement offers, as well as other offers to contract on a firm basis a greater percentage of the expected standard offer load. The full requirements offers reflected a substantial premium for the suppliers to accept the standard offer load risk. We consider BHE's strategy to accept the favorable firm contract, in lieu of an all requirements approach to be one of several reasonable approaches under the circumstances, and we, thus, find the strategy to be prudent.

While we find that BHE's actions and strategy to date to be prudent, we cannot insulate the Company from decisions it might make in the future. For example, circumstances may change such that a modification of strategy is warranted. Future events may present the opportunity or need to acquire some or all of the energy and ancillary products necessary to provide the remaining approximately 40% of standard offer load from sources other than the spot market. We ask BHE to file monthly reports of its standard offer costs and collections and to meet with us before the summer season to discuss BHE's then current recommendations concerning its wholesale power supply procurement strategy.

B. Standard Offer Prices

We adopt BHE's recommendation to maintain the residential/small non-residential price at $0.45/kWh, and the MECC's proposal to raise the medium and large classes' rates to an average of $0.049/kWh. Specifically, the standard offer rates we adopt are as follows:[6]

	Non-Summer	Summer
Residential/Small Non-Residential	$0.045	$0.045
Medium Non-Residential	$0.04624	$0.05704
Large Non-Residential On-Peak	$0.05314	$0.07459
Large Non-Residential Shoulder	$0.04680	$0.06829
Large Non-Residential Off-Peak	$0.03848	$0.04117

In administratively establishing standard offer prices, we must consider several factors which may conflict. These factors include: establishing prices that do not cause a burden for customers without competitive options; matching prices to supply costs to avoid large over-or under-collections; and avoiding unnecessary impediments to promoting a competitive market. The standard offer prices we establish for BHE's service territory represent a balancing of these factors.

We find no reason to dispute BHE's projection that it will cost approximately $0.045/kWh on average to provide standard offer service. However, BHE is in a unique position relative to all other competitive providers. As a regulated utility, BHE may defer the difference between its price and costs for later recovery, thus eliminating any "price risk." Competitive entities cannot defer costs for later recovery and, therefore, must account for "price risk" through a premium in establishing their price offerings. As a result, such entities could not reasonably compete with a price based on utility supply costs which will be reconciled after-the-fact.

So as not to unnecessarily impede the development of a market in BHE's territory, we set a price somewhat above BHE's projected costs for the middle and large classes. Raising the price will also have the benefit of reducing the potential for under-recoveries that would need to be recovered in future rates. We have not increased the price for the residential/small non-residential class, because there is unlikely to be robust competition for customers in this class in the near term. As a result, these customers are not likely to have significant options, and thus minimizing the rate burden is the higher priority.

To ensure that the standard offer rates reflect the costs of supply, we will closely monitor BHE's actual supply costs and will consider modifying the prices if they do not reasonably reflect costs. Finally, we will not, at this time, make any decision regarding

[6]These prices were presented by BHE in a February 17, 2000 filing following our February 11th deliberations of this matter. In this filing, BHE asked to narrow the seasonal differential in the large class to that used in its "no losers" analysis presented in its companion rate proceeding (Docket No. 97-596). We voted to adopt the prices presented in the February 17 filing at our February 22 deliberations.

the ratemaking treatment of any over or under-collection. Such decisions will be made in a future ratemaking proceeding.

C. Waivers

1. Disclosure Label

We decline BHE's request to waive the requirement in Chapter 306 § 2(E)(2) that the disclosure label be provided quarterly. Our rule requires the label to be provided each quarter even if the information on the label remains unchanged. The rule could have easily contained a provision stating that labels need not be sent if the information has not changed, but no such provision was included. In addition, we note that our provisionally adopted rule required the label to be distributed semi-annually. The Legislature, however, directed that the final rule contain the quarterly requirement, Resolves 1999, ch. 34, thus signaling a policy in favor of frequent distribution of the disclosure label. For these reasons, we decline to waive the quarterly distribution requirement.[7]

2. Portfolio Requirement

We grant BHE's request to waive the provision in Chapter 311 § 3(B) that the portfolio requirement be established over a calendar year. Because BHE will provide standard offer service for only a limited time, it is reasonable that BHE satisfy the requirement over a 12-month period from March 1, 2000 to February 28, 2000.[8]

3. Great Bay Contract

Under current circumstances, it is reasonable for BHE to use the capacity and energy from its Great Bay Contract to partially serve standard offer for a one month period (March 1 – March 31). Accordingly, we grant the extension and waivers requested by BHE. Specifically:

- the date to divest the contract is extended to March 31, 2000;
- the capacity and energy from the contract is exempt from the bidding and sales requirement of Chatper 307; and
- the capacity and energy from the contract may be used to satisfy BHE's standard offer obligations.

---

[7]We recently denied a similar waiver request from Energy Atlantic. See Order, Docket No. 99-827 (February 16, 2000).

[8]We granted the same waiver for CMP. See Order, Granting Request for Waiver, Docket No. 99-111 (February 16, 2000).

Dated at Augusta, Maine, this 29th day of February, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.